

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13541, of Nancy B. Reuter, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from retail sales ready-to-wear apparel, part of first floor, to retail sales of fabric and wallcoverings and pick-up location for cleaning of household furnishings, part of first floor, in an R-3 District at the premises 1263 - 35th Street, N.W., (Square 1221, Lot 845).

HEARING DATE: July 24, 1981  
DECISION DATE: September 4, 1981

FINDINGS OF FACT:

1. The subject property is located in an R-3 District on the southeast corner of the intersection of 35th and N Streets, N.W.
2. The subject site has 23.5 feet of frontage on 35th Street and forty-nine feet of frontage on N Street. It is rectangular in shape.
3. The subject property is composed of former record lots 80 and 81. Lot 80 is improved with a two story plus cellar brick row dwelling known as 1261 35th Street. Lot 81 is improved with a two story brick building known as 1263 35th Street. The upper floor of 1263 is connected to the house at 1261, and forms a part of the residential unit entered at 1261.
4. The first floor of 1263 35th Street has most recently been used for the retail sale of ready-to-wear apparel, pursuant to Certificate of Occupancy No. B-115168, issued July 3, 1979, as authorized by BZA Order No. 8233. This portion of the building has been vacant for several months since the last tenant left the premises.
5. The applicant proposes to lease the premises to Anthony P. Browne, Inc., a small firm which specializes in the retail sale of fine fabrics and wallcoverings. The firm is presently located in England, and plans to establish a branch in the Washington, D.C. area. Most of the work of the firm would be at the homes or establishments to be decorated. Very little traffic would come to the subject site. Incidental to the sale of fabrics and wallcoverings, the tenant would also do cleaning and repair of curtains, drapes and other similar items. No major cleaning would be done on the premises. A minimum amount of special solvents would be stored on the premises.

6. The previous apparel sales use is first permitted in a C-1 District. The proposed use is also first permitted in a C-1 District.

7. The applicant testified that the tenant proposes to lease for a five year period both the commercial space and the adjoining living quarters.

8. There is a parking space available behind the subject building which is reached via a public alley from N Street.

9. The area is characterized by row dwellings with some interspersed non-conforming retail and commercial service uses. Georgetown University begins on the west side of 37th Street, although some smaller university buildings are interspersed as far east as 35th Street. Immediately south of the subject site are nine identical row dwellings, all of which are being used residentially. North of the site, beyond N Street, are three non-conforming uses, a weaving store, a valet service, and a shoe repair. There are other small non-conforming uses further north, although residential uses predominate. West of the site across 35th Street is a four story Georgetown University building.

10. The subject site is in an R-3 District that encompasses nearly all of that part of Georgetown, including Georgetown University, north of M Street and west of Wisconsin Avenue. The nearest commercial zones are the C-2-A District along M Street, 600 feet south of the site and a C-1 District on the west side of 36th Street from Prospect Street to N Street 500 feet west of the site.

11. The Office of Planning and Development, by memorandum dated July 24, 1981, and by testimony at the public hearing, recommended that the application be denied. The OPD advised that this site has been used for non-conforming purposes for many years. For at least the last fifteen years the use has consisted of retail sales. The proposed use is retail sales and a pick-up and drop-off point for the cleaning of various items. This would be an intensification of use, for there would be two commercial functions where previously there had been one. The OPD was of the opinion that such an intensification is not envisioned for non-conforming uses by the Zoning Regulations in Sub-section 7109.1. The OPD was of the opinion that the site is not peculiar in any way that diminishes its viability for a conforming residential use; this is the use for which it was designed. The representative of the OPD testified at the hearing that he was not aware of the limited extent of the "pick-up" activities proposed for the site. The Board requested that the OPD further evaluate the application based on the testimony given to the Board at the hearing.

12. The OPD, by memorandum dated August 25, 1981, reported the results of its further review and field survey. The interior of the first floor of the subject structure consists of one large room with a closet and bathroom at the rear. Some commercial display fixtures remain from its previous use. There is a large display window on the N Street side of the structure that extends approximately three feet beyond the north property line. The second floor of the structure can only be entered through the adjacent property at 1261 35th Street. This adjacent row dwelling unit includes the first floor of 1261 35th Street and the second floors of 1261 and 1263 35th Street. This unusual floor plan, whereby the upper floors of these two units are incorporated as the second floor of a single unit, was probably not the original floor plan. However, according to the applicant, this floor plan dates back at least to her purchase of the two row dwelling units in the early 1960's. To return the first floor of 1263 35th Street to residential use would entail the construction of kitchen facilities, and for purposes of privacy and safety, the elimination of the display window and door on the N Street side. Such a unit would be an efficiency due to the small floor area approximately 350 square feet. Based on the new facts that have been presented in this case, the Office of Planning and Development recommended that this application be approved. The unit is now, from a structural design perspective, a commercial one, and to return it to a conforming residential use would involve costs sufficient to constitute an unusual hardship. Upon further discussion with the prospective tenant, it was determined that, although there would be limited delivery of goods for cleaning, overall the proposed use would generate less walk-in traffic than the previous use. On balance, OPD was of the opinion that the proposed use would be less detrimental to the area in terms of noise, traffic, and congestion. The Board concurs with the findings and recommendation of the supplemental OPD report.

13. Advisory Neighborhood Commission - 3A, by letter dated July 24, 1981, advised the Board that it did not oppose the application. No specific issues or concerns were presented.

14. There was no opposition to the application.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. In order to be granted such an exception, the applicant must demonstrate that she has complied with the requirements of Sub-sections 7104.2 and 8207.2 of the Zoning Regulations.

The proposed use is permitted in the most restrictive district in which the last previous use is permitted. The proposed use because of its low intensity of operation and traffic will not be objectionable in the area. The Board further notes that the property is not reasonably suitable for residential use, given the small size of the first floor, the absence of a connection to the second floor, and the extensive renovation necessary to accommodate a residential unit in the building.


The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps. It is therefore Ordered that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Storage of flammable materials shall be subject to any applicable Building Code and Fire Regulations.
2. The parking space to the rear of the building shall be reserved for use by the commercial portion of the building.

VOTE: 4-0 (Douglas J. Patton, Charles R. Norris, Connie Fortune and Lindsley Williams to GRANT; William F. McIntosh not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: \_\_\_\_\_

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 15 OCT 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.